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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,740	08/13/2003	William Randolph Stowell	124251	1739
31838	7590	11/03/2005	EXAMINER	
HASSE GUTTAG & NESBITT LLC 7550 CENTRAL PARK BLVD. MASON, OH 45040			CARRILLO, BIBI SHARIDAN	
			ART UNIT	PAPER NUMBER
			1746	

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/604,740	<b>Applicant(s)</b> STOWELL ET AL.	
	<b>Examiner</b> Sharidan Carrillo	<b>Art Unit</b> 1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 5-16 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5-16 and 21-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 15-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 is indefinite because it is unclear what is meant by "non-contacting relation".

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1, 5-11, 13, 15-16, and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dopper (US2001/0055653) in view of Wulff ((3852061).

Dopper teaches a method of removing oxide from a gas turbine blade 1 by directing a plasma 21 towards the substrate surface, as illustrated in Fig. 4 (paragraphs 11, 20, 55-57). In reference to an alloy surface, refer to paragraph 42. In reference to claim 5, refer to paragraph 56. In reference to claim 7, refer to paragraph 20, 54, 56-57. In reference to claims 9-10, refer to Fig. 4. In reference to claims 13 and 16, refer to paragraphs 38 and 55.

Dopper teaches removing oxides, but fails to teach removing metal oxides. However, it would have been obvious to a person of ordinary skill in the art to remove metal oxides since Dopper provides a general teaching of removing oxides and other contaminants, which would also include metal oxides. Additionally, it is notoriously well

known in the art to use plasma to remove metal oxides from substrate surfaces (3852061, 2001/0050265, 3651136).

Dopper teaches the invention substantially as claimed with the exception of the low pressure within the chamber and the apparatus limitations as recited in claims 11 and 15. Wulff teaches a vacuum plasma apparatus as illustrated in Fig. 1, which is used for reduction of metal oxides (col. 1, lines 5-10). Fig. 1 teaches a discharge nozzle 22b, a plasma source (col. 5, lines 1-5), electrodes 16, 18, and a power supply (col. 4, lines 55-60) for generating an arc discharge of ionized gas (col. 5, lines 1-5) used for reducing metal oxides. In reference to the pressure of the vacuum chamber, refer to col. 5, lines 1-5. It would have been obvious to a person of ordinary skill in the art to have modified the method of Dopper to include the plasma of Wulff, for purposes of performing the same function of reducing metal oxides on the substrate surface. In reference to claims 6, 8, 15, and 21-26, Wulff teaches between about 1 and 10 torr. In reference to claim 11, refer to Fig. 1 of Wulff.

Dopper in view of Wulff fail to teach generating a meta-stable  $H_3^+$  plasma. However, both references teach removal and reduction of metal oxide by generating a plasma using hydrogen. Wulff teaches pressures of 1-10 Torr. One would have reasonably expected the generation of meta stable  $H_3^+$  plasma since Wulff uses the same pressure conditions as the instantly claimed invention. Additionally, one would have reasonably expected  $H_3^+$  plasma to be formed since the ionization of hydrogen gas would result in various species of hydrogen being formed, one of which being  $H_3^+$  plasma.

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8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dopper (US2001/0055653) in view of Wulff ((3852061), as applied to claims 1, 5-11, 13, 15-16, and 21-26 as described in paragraph 7 above, and further in view of Restall et al. (4698130).

Dopper in view of Wulff fails to teach the limitations of claim 3. Restall et al. teach that it is conventional for turbine blades to incur damage by cracking. In col. 1, lines 15-25, Restall et al. teach that blades are prone to oxide contamination and further teaches the desire to remove the contaminants from cracks found in the turbine blades. Restall further teaches the need to provide a cleaning process which penetrates the cracks in order to effectively remove contaminants therefrom. It would have been obvious to a person of ordinary skill in the art to have modified the method of Dopper to include the turbine blade comprising crevices having contaminants therein since Restall teaches that during normal use, the components are routinely found to have incurred damage to a degree which requires repair provided that surface contamination from the crevices are removed.

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being over Dopper (US2001/0055653) in view of Wulff ((3852061), as applied to claims 1, 5-11, 13, 15-16, and 21-26 as described in paragraph 7 above, and further in view of Cohen et al. (US2001/0050265).

Dopper in view of Wulff teaches the invention substantially as claimed with the

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exception of the limitations of claim 12. Cohen et al. teach the removal of metal oxides from substrate surfaces using conventional process gases comprising 5% or less hydrogen premixed with an inert gas (paragraph 12).

It would have been obvious to a person of ordinary skill in the art to have modified the method of Dopper to include hydrogen having a concentration of less than 5%, premixed with an inert gas, which are conventionally used, as taught by Cohen, for generating a plasma used in the reduction of metal oxide from substrate surfaces.

10. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dopper (US2001/0055653) in view of Wulff, and Cohen et al. (US2001/0050265), as applied to claim 12 as described in paragraph 9 above, and further in view of Venus et al. (3851136).

Dopper in view of Cohen fails to teach the limitations of claim 14. Venus teaches in Fig. 1, generating a plasma through a magnetic channel for purposes of accelerating the electrons used in the reduction of metal oxides. It would have been within the level of the skilled artisan to have modified the method of Dopper to include a magnetic field channel, as taught by Venus, for purposes of transmitting the flow of electrons within the plasma for use in the reduction of metal oxides.

### ***Response to Arguments***

11. The rejection of the claims under 112, first paragraph is withdrawn in view of arguments presented by applicant.

12. The rejection of the claims under 112, second paragraph is maintained for the reasons set forth above.

13. The rejection of the claims as unpatentable over Dopper is withdrawn in view of the newly amended claim language. Applicant argues that Dopper fails to teach the pressure or other conditions necessary to form the meta-stable plasma state.

Applicant's arguments are unpersuasive since they are not commensurate with the limitations of claim 1. Claim 1 does not recite the specific pressure conditions. The secondary reference of Wulff has been introduced to cure the deficiency directed to the formation of meta stable H<sub>3</sub><sup>+</sup> plasma. Applicant further argues that Dopper fails to teach metal oxides under conditions that form a meta-stable plasma of H<sub>3</sub><sup>+</sup> species. Applicant's arguments are not persuasive since no conditions are recited in claim 1. Additionally, the claims no longer recite a method of removing oxide.

14. It is noted that applicant did not object to the combined teachings of Dopper in view of Restall.

15. The rejection of Dopper in view of Grunner has been withdrawn in view of the arguments presented by applicant. All arguments are deemed moot. The secondary reference of Wulff has been introduced to cure the deficiency.

16. Applicant argues that there is no motivation to combine the teachings of Dopper in view of Cohen or Dopper in view of Cohen and Venus because the inventions were classified in different classes. Applicant's arguments are unpersuasive because the references are directed to the removal of metal oxides from the substrate surface. Applicant further argues that Cohen fails to teach the pressure and or processing conditions needed to provide a meta-stable H<sub>3</sub><sup>+</sup> state. Applicant's arguments are not persuasive because they are not commensurate with the language of claims 12 and 14.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharidan Carrillo whose telephone number is 571-272-1297. The examiner can normally be reached on M-W 6:30-4:00pm, alternating Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Primary Examiner  
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bsc



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